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Security On Campus, Inc.

649 S. Henderson Road, Suite 6

King of Prussia, PA 19406-4216

tele: (610) 768-9330

1-888-251-7959

fax: (610) 768-0646

e-mail: soc@securityoncampus.org

www.securityoncampus.org

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NAME: DOUGLAS PARROTT

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FROM: S. DANIEL CARTER

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March 29, 2004

Mr. Douglas Parrott, Area Case Director
Case Management Team
U.S. Dept. of Education, Region V
111 N. Canal St., Room 830
Chicago, IL 60606

Re: Ohio State University

Dear Mr. Parrott:

Alleged violations of the Jeanne Clery Act at Ohio State University were recently brought to our attention by a student rape survivor there. Key among the apparent violations are a failure to properly notify all rape victims about all options and services available to them, as well as a failure to promptly and properly disclose to the public information about rape complaints made to the campus police.

The victim who contacted us was raped in a campus residence hall room in 2002. She alleges, as noted in more detail in an enclosed statement, that the University failed to properly respond to her rape complaint. Although her assault was reported to the police on the day it occurred there was no crime log entry made until four months later when she again reported it to campus police.

Had the University properly provided the basic victims' rights required by the Clery Act it is likely this case would have been dealt with in a much less traumatizing manner. Accordingly, steps need to be taken immediately to ensure that these deficiencies are corrected so that no future victims will face these problems.

In addition to the enclosed Clery Act complaint which details the alleged violations, you will also find supporting materials including their current annual security report, and crime log disclosures. Please review this information and take prompt corrective action to ensure that Ohio State University is in full compliance with the law, and that campus sexual assault victims are afforded all of the rights they are due.

Thank you in advance for your prompt attention to these issues. If you have any questions please don't hesitate to contact me.

Sincerely,

S. Daniel Carter

A National Tax Exempt Organization 501(c)(3)

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**Complaint Of Non-Compliance With The
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
(Crime Awareness and Campus Security Act of 1990)**

20 USC § 1092(f); 34 CFR 668.46

March 29, 2004

Annual Security Report Due: October 1, 2003

Participating Institution
The Ohio State University
205 Bricker Hall, 190 North Oval Mall
Columbus, OH 43210-1357
<http://www.osu.edu/>

Filed With
U.S. Department of Education
111 N. Canal Street, Room 830
Chicago, IL 60606
<http://www.ed.gov/>

Brought By
Security On Campus, Inc.
649 South Henderson Road, Suite 6
King Of Prussia, PA 19406-4216
<http://www.securityoncampus.org/>

Introduction

An Ohio State University student who alleges that she was raped in a residence hall on the institution's campus in February of 2002 contacted Security On Campus, Inc. during the fall of 2003 alleging various violations by the University of the federal Jeanne Clery Act. SOC gathered documentation concerning her complaints, and in January of 2004 an SOC official visited the University and met with the victim to discuss her concerns.

Following a thorough review of the documentation provided by the student, copies of which are included in this complaint as Exhibits C through F, this complaint results. We ask that prompt corrective action be taken by the U.S. Department of Education to ensure that the University is in full compliance with the Act.

Policy Disclosures Do Not Accurately Reflect Practice

In this complaint we will document that although the Ohio State University has adopted, and published policies dealing with their response to incidents of sexual assault, as required by the Jeanne Clery Act at 20 U.S.C. § 1092(f)(8), they were not followed in this case. Problems also exist with at least one prior assault involving the same alleged assailant. After an assault of this kind victims are often in a state of shock and in need of strong support, and clear guidance. It is for this very reason that the Jeanne Clery Act's "Campus Sexual Assault Victims' Bill of Rights" provisions exist. Failure to follow these guidelines, and an institution's own written policies can significantly add to the trauma inflicted on a rape victim, and it has done so in this instance.

The University's annual security report (Exhibit A) states that the "University will assist students who report sexual assault in obtaining medical support... as well as counseling and support services." The student, however, alleges, as detailed in a written statement included with this complaint (Exhibit B), that on the day of her assault she reported it to a student housing official and campus police officer, but was not properly notified of available counseling resources. She was also not offered any assistance in obtaining medical care or told that going to the hospital could help preserve evidence.

A "Communication Information Form" (Exhibit C-2) completed by the student housing department official at the time of the initial report on February 22, 2002 [*misidentified on the CIF as February 28, 2002; an OSU police report (Exhibit C-3) completed in June, however, contains documentation that the CIF was indeed filed on the 22nd*] confirms that the student was not told about all of the resources available to her. Specifically the CIF contains a notation that the "anticipated follow-up" will be to "refer (the victim) to all appropriate campus resources" indicating that such referrals were not actually made at the time of the complaint.

Further, according to this document the housing department official only offered to refer the victim to "services the Residence Education department could provide" clearly not a reference to the campus community-wide, and off-campus resources which are supposed to be made available under such circumstances according to the annual security report. Because the student reported her assault within twenty-four hours it would have been especially critical for the purposes of gathering forensic evidence to transport her to the hospital for examination and medical care. This opportunity, however, was lost forever.

The annual report (Exhibit A) also states that if "requested by the survivor, and if reasonably available, the University will assist the survivor in changing his/her academic or living situation after the alleged assault." These options were not made available to the student at the time of her initial report. According to her statement (Exhibit B) neither the housing official or campus police officer that she spoke with on the day of her assault ever contacted her again to discuss the case or offer any assistance. This left her with only the information she was provided in that one meeting.

Lastly, the annual security report (Exhibit A) states that in cases of sexual assault adjudicated by the Office of Student Judicial Affairs both "the accused and accuser shall be provided with the hearing outcome within 48 hours of the decision by the hearing panel or hearing officer." The student, however, states that another female student who alleges that she too was raped by the same assailant was never formally notified of the outcome of a hearing concerning that allegation. This hearing was apparently conducted by the Housing department instead of the Office of Student Judicial Affairs. The Clery Act mandates, however, that this right of notice be granted irrespective of which office on campus handles the disciplinary matter.

Policies need to be put in place that ensure all reports of sexual assault involving members of the Ohio State University community are dealt with properly, and according to all Jeanne Clery Act requirements. A protocol should exist requiring all campus security authorities, including housing officials and campus police, to inform all rape victims about all of their rights guaranteed by the Clery Act, and any additional rights or options granted by institutional policy.

Incomplete Sexual Assault Policy

This complaint will also document that while the Ohio State University has adopted sexual assault policies, as required by the Clery Act, they do not fully comply with all statutory and regulatory requirements. Each required component serves a critically important purpose and must not be overlooked.

The University's annual security report (Exhibit A) fails to include in the sexual assault victims' rights policies "a statement that institutional personnel will assist the student in notifying... on-campus and local police... if the student requests the assistance of these personnel" as required by the Clery Act's implementing regulations at 34 CFR § 668.46 (b)(11)(iii). Instead the report states that the "University will assist students who report sexual assault in obtaining... information regarding available legal and judicial resources."

The Clery Act guidelines require that an institution provide more than information regarding legal and judicial resources. They require that an institution state that they will support and assist a student in formally reporting the assault to law enforcement. It is critically important that victims know they can rely on this support, and that responsible employees know they are obligated to assist a victim in reporting to the police.

A later section of the report further states that survivors "will be assisted by the Office of Judicial Affairs in learning about the options for reporting sexual assault to the university as well as University Police." This statement, however, also omits any statement, as required by the federal guidelines, that the survivor will actually be assisted in notifying law enforcement. It totally omits any information about reporting an incident to off-campus police, a right guaranteed by the guidelines.

A victim may not be comfortable in reporting their assault to campus police, and or the assault may have occurred outside their jurisdiction. Accordingly, the federal guidelines require that assistance be provided in notifying both on and off campus police. Failing to include off-campus police as a potential resource denies students all their rights established by the Clery Act.

In this case the survivor asked a University housing department employee to contact campus police, and an officer was in fact dispatched. Her statement (Exhibit B) and the CIF report (Exhibit C-2), however, document that all of her options were not clearly explained to her by the responding officer, and that a formal police report was not taken at that time.

Campus Crime Report Information Not Properly Disclosed

The fundamental principle of the Jeanne Clery Act is that if students are warned about serious criminal activity they will have the opportunity to avoid future victimization. This complaint will document that, in addition to inadequate implementation and adoption of campus sexual assault policies, the Ohio State University has also failed to fully uphold this core principle of the Jeanne Clery Act. Specifically, the University has not promptly and properly disclosed to the public basic information about campus rapes reported to the institution's police department.

The initial report of the complaining student's rape, which was reported by a University housing department official, to the institution's police agency on February 22, 2002 was never reflected in the public crime log. The regulations at 34 CFR § 668.46 (f)(1) require, however, that "any crime" which "is reported to the campus police" be included in a public crime log. It was not included in the log (Exhibit D) until June 14, 2002 when the student filed a formal police report (Exhibit C-3) herself. The incident is identified in the log as report 02-1385, and there is clearly no corresponding entry concerning an assault at Smith Hall for February when the first report was made to campus police.

Also, the log entry for report 02-1385, and every single other log entry reflecting a report of rape, a total of 14 from October 2001 through January of 2004, omits the date and time of each incident. The reporting guidelines clearly state that while crimes are to be recorded "by the date the crime was reported" the entry must also contain the "nature, date, time, and general location of each crime." Omitting this information, including only the date and time reported, denies students important information about when crimes actually have happened, and when they are most likely to occur on campus. Without this information they can not make informed decisions about avoiding possible victimization.

Timely Warnings Not Issued

The student, in her statement (Exhibit B) and in two civil lawsuits filed in both state and federal court (Exhibit E), most seriously alleges that her alleged assailant was found responsible for a rape several weeks prior to her assault, but was allowed to remain on campus. He was simply required to move from one residence hall to another, Smith Hall the location of the second alleged assault. This prior alleged assault is documented in OSU Police report 02-0322 (Exhibit C-1).

Despite federal regulations at 34 CFR § 99.31(a)(14) governing the privacy of student records that would have allowed the University to identify this individual, after he was found in violation of school policy for an alleged crime of violence like rape, no timely warning identifying him was issued. This failure to issue a timely warning left the second student unaware of the potential threat to her safety.

The Clery Act regulations, at 34 CFR § 668.46 (e), require that institutions "must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that... represent a threat to students and employees." The University should have issued a timely warning, and had they done so it is possible the second assault would never have occurred.

Further, no timely warning was issued after the second report of rape, despite the fact that the alleged assailant was allowed to remain on campus well over a year after a formal police report was filed. The alleged assailant was not formally removed from campus until September 26, 2003 (Exhibit F), two months after he was indicted on criminal rape charges as noted on the last page of the OSU Police report on the case (Exhibit C-3).

Conclusion

The provisions of the Jeanne Clery Act are intended to ensure that students are warned of potential risks to their safety from criminal activity, and to ensure that the victims of sexual assault are fully supported. It appears, however, that in this case these protections were not properly afforded to students, and most specifically to the complaining student.

It is critical that policies be adopted ensuring that each and every single rape victim who reports their assault to a campus security authority is afforded all the rights they are due under the Jeanne Clery Act and institutional policy. It is also very important that the University's crime log, and crime reporting policies be revised to ensure that crime log entries are made promptly, and include the actual date and time of each crime. Timely warnings should also be issued when a student who is a potential threat to the safety of other students is allowed to remain on campus.

Despite numerous requests to the University made by the survivor these problems have yet to be rectified. Accordingly, we call on the U.S. Department of Education to undertake swift corrective action to immediately address these problems.

A handwritten signature in black ink, appearing to read "S. Daniel Carter", written over a horizontal line.

S. Daniel Carter, Senior Vice President
Security On Campus, Inc.

Exhibit B

Ohio State University Student Statement

Jeanne Clery Act Complaint-The Ohio State University
March 29, 2004

During the early morning of February 22, 2002 my life was drastically changed forever. As a freshman at the Ohio State University, I became a victim of acquaintance rape. It is truly astonishing how minutes of one's life can affect the rest of its future. A friend from high school attacked me inside of his dormitory room, located in Smith Hall on the Ohio State University Campus. I just lived two dorms west from his in Stradley Hall.

I decided that it was my obligation to stand up against this man and prevent him from raping other women. That same day, I reported the rape to my hall director, Leon Stevenson. Mr. Stevenson listened to my story while taking notes. He called Officer Pam Temple from OSUPD to talk to me in his office. I explained what happened to me again, however she took no notes during our conversation. I have no recollection of her writing down my story, name, or even the marks on my neck. The Officer asked me if I wanted to file a police report. I had no idea what a report meant- did that mean I would be in a courtroom within days- face to face with my rapist? I was terrified. I was confused and I was totally clueless. Had I known the process or the importance of filing a report on the day of the rape, had *someone- anyone* explained *anything* to me, I would have filed a report on that day.

After telling my story, I was dismissed from Mr. Stevenson's office. I never heard from either of those people again regarding my rape. I went back to my dorm room immediately. Nobody suggested going to the hospital in order to obtain a rape kit or to protect myself from disease. I wish *someone* had explained the value of going to the hospital in order to secure evidence for a criminal case.

I was never informed about my option for holding the rapist accountable with the police. I was not informed about my option for holding my rapist responsible at the university either. I was not informed about the possibility of filing charges at the Office of Student Judicial Affairs. I was not informed about the Student Advocacy Center. It was not until the next school year that I was informed about the Rape Education and Prevention Center on campus. I was not told anything. I had to find to seek out these resources on my own. The months following the assault would have been so much easier for me had someone informed me of the resources available on campus.

Both the rapist and I lived on South Campus where all dorms are within five minutes walking distance. As a result of the close living quarters, the remainder of my freshman year was spent constantly looking over my shoulder and hesitant to turn a corner. Simply walking out of my dorm was enough to make my heart pound rapidly. I wish someone from Residence Life had discussed the option of moving to a more distanced location where I could worry just a little bit less about running into my perpetrator. Moving dormitories would have saved endless anxiety, but instead I walked each step in fear. Nobody ever suggested any alternatives.

The first days of classes were the scariest because of the slight chance that he would be enrolled in one of my classes. I would cross my fingers and hope that I would not have to share a classroom with him. Little did I know that something could have been done to eliminate this

ongoing fear. Nobody ever offered me an opportunity to avoid this fearful scenario.

I suffered seriously from Post-Traumatic Stress Disorder (PTSD), and eventually withdrew from all of my classes. Nobody informed me of any counseling or support for such a difficult, traumatic event. I found support on my own, and am still in counseling today.

Although Officer Pam Temple was called to Stradley Hall on the date of my rape, the Ohio State Police Department Crime Log does not list the crime until June 14, 2002, the date that the "official" report was made. Also it doesn't list when it actually happened, only the date I reported it.

My case was mishandled in numerous ways by the university. It was so disappointing to constantly learn more and more ways in which the university dropped the ball. It was bad enough to be victimized by a friend, but it only made life harder to be victimized, once again, by my university.

There are countless moments that will never be erased from my memory. I will never forget the day that I first read the detective's investigative report. I remember it so clearly; I was sitting in the Office of Student Judicial Affairs in absolute disbelief. Jenny Kline, assistant director of Residence Life reported several fabrications to the detective, which were written in the report. I am still, today, shocked at the bold lies that she told. She said that there was no dormitory report made, and that the sex was consensual. During my school hearing in September 2003, Jenny Kline testified and reported that her prior statements to the investigating detective were totally untrue. The dormitory report was presented to the panel of judges, and her two lies were confirmed as false.

In that same testimony, Jenny Kline revealed to the panel of judges that my perpetrator had been found guilty of sexual misconduct in a Residence Life Hearing. The hearing was held as result of a rape reported just three weeks prior to my attack. I was shocked once *again*. As his punishment, he was merely transferred from Baker Hall Dormitory to Smith Hall Dormitory. To think...my rape could have been prevented if only...

If only the university would have issued a timely warning regarding the reported rape which had occurred just three weeks before I was assaulted. The Ohio State University did not issue any warning after my rape either- the second reported rape by the same man within one month. Several women have told me that they, too, were sexually assaulted by the same man after I was. If only the Ohio State University would have warned its students...

I am positive that most students, just like I was, are unaware of their rights as victims of campus crime. Unfortunately I did not learn my rights until I found *Security On Campus*, a nonprofit organization started by parents whose daughter was raped and murdered because of what a university did not tell her. Connie and Howard Clery have made it possible for me, and other victims of campus crime to find courage, strength, and most importantly, justice. Daniel Carter, Vice President of S.O.C. extends his help and tremendous knowledge whenever he can in order to aid victims of campus crime in achieving their rights afforded to them by law. This organization has opened my eyes to the harsh realities surrounding acquaintance rape: I am not

alone, it happens everyday, and it happens everywhere. Because of the Clery Family, universities are held accountable for their wrongdoings and forced to recognize change that is needed. I am so lucky to have contacted *Security on Campus*.

No student should ever have to endure the endless delays and injustices that I have. The Ohio State University should and could have prevented me from a life altering, horrible nightmare, but instead they simply moved the rapist to another dormitory. I was not afforded my rights as a student victim. The Ohio State University NEEDS to change. They have an obligation to protect and support victims of rape on their campus, and they are clearly not fulfilling their duties. The Ohio State University needs to empower victims of rape, not push them away.